OFFICER REPORT

Case No: **24/01843/CLED** **Certificate of existing lawful use**

Proposal: **Lawful Development Certificate (existing) for the erection of a factory unit.**

Location: **Iko-Eco House St Marys Road Ramsey**

Applicant: **Mr Payn**

Grid Ref: **528060 285951**

DESCRIPTION OF SITE AND APPLICATION

This application is seeking a Lawful Development Certificate for the erection and use of a factory unit without compliance with conditions 3, 5 and 11 of application reference 0200958FUL. The application was submitted on the 4th of October 2024 and therefore the relevant time period to be considered is from the 4th of October 2014, of continuous use of the land outlined in red for the erection of a factory unit without compliance with the aforementioned conditions.

The site is located to the south-west of St Mary's Road, Ramsey.

During the lifetime of the application and at the agreement of the agent the description of the development has been amended to better reflect the nature of the Certificate applied for.

RELEVANT PLANNING HISTORY

0200958FUL - Erection of factory unit (Permission)

CONSULTATIONS

There is no statutory requirement to consult third parties including Town Councils or neighbours. It may, however, be reasonable for a LPA to seek evidence from these sources, if there is good reason to believe they may possess relevant information about the content of a specific application. In this case it was considered reasonable to consult the local Town Council but no representations have been received at the time of determination.

Cadent Utilities were also consulted and raise no objections. They do make representations showing the location of pipelines in the vicinity and noting that it requires protection during works. However, it is acknowledged that they have approached this as if it were a planning application. In this case the works have commenced and are complete (the reason for the application). Therefore, no further pursual of this matter is considered necessary.

REPRESENTATIONS

No representations have been received at the time of determination.

ASSESSMENT

The applicant has to demonstrate, on the balance of probability that the claimed use has operated continuously for 10 years. Relevant parts of the Town and Country Planning Act 1990 are as follows:

Section 171B(3) imposes a 10 year time limit where the breach of planning control includes changes of use. Under this section "… no enforcement action may be taken after the end of the period of 10 years beginning with the date of the breach."

If the application is granted, planning conditions cannot be imposed. However, the certificates should state the precise details of the use and any limitation on that use. The test is the balance of probability. Regard cannot be given to any objections to this application on planning grounds. The determination of this application turns on the facts of the case and their interpretation in the light of relevant planning law and judicial authority.

Planning History Information:

The original permission was granted under application reference 0200958FUL and was simply described as the erection of a factory unit. It did not specify the use class of the building nor did it condition the uses which could take place within it. Officers have had sight of the letter from Andy Moffat, (former Development Control Manager), dated 15th February 2008 referred to in the cover letter dated 3rd October 2024 and supplied with this application, and it does state that landscaping details remain outstanding. This letter does not contain a reference number but states that the detail submitted for conditions 2, 6, 7, 8, 9 and 10 are acceptable and that the conditions will be fully discharged once the development is carried out in accordance with these details. The original decision notice for 0200958FUL contained 9 conditions which required further details (2, 3, 5, 6, 7, 8, 9, 10 and 11). Conditions 3 and 5 related to landscaping (the initial subject of this application). It is interesting to note that the letter from Andy did not reference Condition 11 which related to details of storage of waste materials and again required formal discharge prior to commencement of the development but it is acknowledged that this may have already been discharged at the time that the letter was produced but no records remain. The revised description covers this matter, and Officers have sought confirmation from the agent that they are happy that this matter is addressed within this application.

EVIDENCE SUBMITTED BY THE APPLICANT:

*Cover Letter dated 3rd October 2024
*Appendix 1 of above letter (Aerial Imagery)
*Appendix 2 of above letter (letters from LPA and agents dated February 2008)

OTHER DOCUMENTS:

*Location Plan ref P24-1874
*Block Plan ref P24-1874

EVIDENCE HELD BY THE LOCAL PLANNING AUTHORITY

Local Planning Authority Aerial Image records are held for 2009, 2013, 2018 and 2019 and these correspond with those included within Appendix 1 of the submitted cover letter.

ASSESSEMENT

Officers have reviewed the submitted evidence and considered this against records held by the Local Planning Authority. Appendix 1 provides aerial imagery of the site from 1999, 2003, 2006, 2008, 2014 and 2020. The imagery dated 17th October 2008 and 16th April 2014 is key as it shows the factory in place for a period of in excess of ten years at the time that this application was submitted.

CONCLUSION

The application is submitted under Section 191 of the Town and Country Planning Act, as amended. It seeks to demonstrate that a planning unit has been used continuously for a period in excess of ten years for a specific use, namely in respect of the provision of a factory unit without compliance with some conditions. Officers consider that based upon the evidence submitted and that held by the LPA, on the balance of probabilities, it is sufficiently precise to demonstrate the described use has taken place for in excess of 10 years commencing on 1st March 2014.

It is therefore considered that the evidence submitted in this case is sufficiently precise to confirm the areas of land have been used for the required period, therefore the application demonstrates on the balance of probabilities that the use has occurred on the land for a period in excess of ten years without compliance with conditions 3, 5 and 11. It is therefore recommended that the Certificate is granted for the lawful existing use of Iko-Eco House, St Mary's Road, Ramsey, PE26 2SA for the erection of a factory unit in connection with permission granted under reference number 0200958FUL dated 19th of November 2002.

If you would like a translation of this document, a large text version or an audio version, please contact us on 01480 388424 and we will try to accommodate your needs.

CONTACT OFFICER:
Enquiries about this report to **Kevin Simpson**